



[Billing Code 3290-F7]

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

**Docket Number USTR-2016-0021**

**Dispute Number WT/DS508**

**WTO Dispute Settlement Proceeding Regarding China – Export Duties on Certain Raw Materials**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice with request for comments.

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**SUMMARY:** The Office of the United States Trade Representative (USTR) is providing notice that the United States has requested the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement). That request may be found at [www.wto.org](http://www.wto.org) in a document designated as WT/DS508/6. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, you should submit your comment on or before December 15, 2016, to be assured of timely consideration by USTR.

**ADDRESSES:** You should submit written comments through the Federal eRulemaking Portal: <http://www.regulations.gov>, docket number USTR-2016-0021. Follow the

instructions for submitting comments in section III below. For alternatives to on-line submissions, please contact Sandy McKinzy at (202) 395-9483. If (as explained below) the comment contains confidential information, then the comment should only be submitted by fax to Sandy McKinzy at (202) 395-3640.

**FOR FURTHER INFORMATION CONTACT:** Katherine Wang, Assistant General Counsel, Katherine\_E\_Wang@ustr.eop.gov, (202) 395-6214, or Leigh Bacon, Senior Associate General Counsel, Leigh\_Bacon@ustr.eop.gov, (202) 395-5859.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires notice and opportunity for comment after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Pursuant to this provision, USTR is providing notice that the United States has requested a dispute settlement panel pursuant to the WTO Understanding on Rules Procedures Governing the Settlement of Disputes (DSU). Once the WTO establishes a dispute settlement panel, the panel will hold its meetings in Geneva, Switzerland.

**II. Major Issues Raised by the United States**

On October 13, 2016, the United States requested the establishment of a WTO dispute settlement panel regarding China's restrictions on the export of various forms of

antimony, chromium, cobalt, copper, graphite, indium, lead, magnesia, talc, tantalum, and tin identified in the State Council Customs Tariff Commission Notice on Issuing the 2016 Tariff Adjustment Plan (State Council Customs Tariff Commission, Shui Wei Hui [2015] No. 23, issued December 4, 2015, effective January 1, 2016) and the Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76 on Announcing the 2016 Export Licensing Management Commodities Catalogue (Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76, issued December 29, 2015, effective January 1, 2016).<sup>1</sup> These export restrictions include export duties on the materials; quantitative restrictions such as quotas on the export of the materials; and additional requirements that impose restrictions on the trading rights of enterprises seeking to export various forms of the materials, such as prior export performance requirements.

China's export restraints appear to be inconsistent with Article XI:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Paragraphs 5.1 and 11.3 of Part I of the Protocol on the Accession of the People's Republic of China (Accession Protocol), and Paragraph 1.2 of Part I of the Accession Protocol (which incorporates paragraphs 83, 84, 162, and 165 of the Working Party Report on the Accession of China).

### **III. Public Comments: Requirements for Submissions**

USTR invites written comments concerning the issues raised in this dispute. You

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<sup>1</sup> The forms of these materials subject to export duties and quotas include, but are not limited to, the items falling under the Chinese Customs Commodity Codes listed in the panel request.

should submit your comment electronically to [www.regulations.gov](http://www.regulations.gov), docket number USTR-2016-0021. For alternatives to electronic submissions, contact Sandy McKinzy at (202) 395-9483.

To submit comments via [www.regulations.gov](http://www.regulations.gov), enter docket number USTR-2016-0021 on the home page and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting Notice under Document Type on the left side of the search-results page, and click on the link entitled “Comment Now!” For further information on using the [www.regulations.gov](http://www.regulations.gov) website, please consult the resources provided on the website by clicking on “How to Use Regulations.gov” on the bottom of the home page.

The [www.regulations.gov](http://www.regulations.gov) website allows users to provide comments by filling in a “Type Comment” field, or by attaching a document using an “Upload File” field. USTR prefers that comments be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “Type Comment” field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the “Type Comment” field.

Submit any comments containing business confidential information by fax to Sandy McKinzy at (202) 395-3640. A person requesting that information contained in a comment be treated as confidential business information must certify that s/he would not customarily release the information to the public. Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the

top and bottom of that page. Filers of submissions containing business confidential information also must submit a public version of their comments electronically through [regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and will be open to public inspection.

USTR may determine that information or advice contained in a comment, other than business confidential information, is confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If a submitter believes that information or advice is confidential, s/he must clearly designate the information or advice as confidential and mark it as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page, and provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding, docket number USTR-2016-0021, accessible to the public at [www.regulations.gov](http://www.regulations.gov). The public file will include non-confidential public comments USTR receives regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from a panel, USTR will make the following documents publicly available at [www.ustr.gov](http://www.ustr.gov): the U.S. submissions and any non-confidential summaries of submissions received from other participants in the dispute. If a dispute settlement panel is convened, or in the event of an appeal from a panel, the report of the panel, and, if applicable, the report of the Appellate Body, will also be available on the website of the World Trade Organization, at [www.wto.org](http://www.wto.org).

Acting Assistant U.S. Trade Representative for Monitoring and Enforcement  
Office of the U.S. Trade Representative.

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